

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	Case No. CR-21-180-DCJ
V.)	
)	
ROY LEE ROBERTS JR.,)	
)	
)	
Defendant.)	

DEFENDANT’S SENTENCING MEMORANDUM

COMES NOW Shena E. Burgess, on behalf of Defendant, Roy Lee Roberts, Jr. (Roberts) respectfully request this Court to consider the following information before sentencing. The sentencing is set on June 1, 2023 at 10:00 a.m.

Procedural History

On April 22, 2021 a single count complaint was filed in 21-MJ-182-SPS with Aggravated Sexual Abuse of a Child in violation of 18 U.S.C 2241(c), 2246(2)(B), 1151, and 1153. Roberts was serving a separate a prison sentence in state court and was brought back on a writ. He was taken into federal custody on April 27, 2021. On April 29, 2021, the federal public defender’s office was appointed to represent him in this matter. On May 13, 2021 he was named in a three count indictment in the above styled case of three counts of Aggravated Sexual Abuse in Indian Country. In January 25, 2022 a superseding indictment was filed adding a count of sexual abuse of a minor in Indian Country in violation of 18 U.S.C. §§ 2243(a), 2246(2)(B), 1151, and 1153. On July 1 and then 14th, 2022 the federal public defender filed a motion to withdraw as attorney with a supplemental motion. Dkt. 97,98. Current counsel

entered her appearance on July 21, 2022. Jury trial was held the week of November 15, 2022. During the close of the government's case, the defense argued a Rule 29 that was the court reserved ruling on, and the AUSA then moved the following morning to dismiss count three in response to the defense's argument. The jury found Roberts guilty of counts 1,2, and 4. The case is now set for sentencing on June 1, 2023 at 10:00 a.m.

The range of punishment for Roberts is on count one and two is thirty years to life imprisonment, not more than \$250,000.00 fine, a term of supervised release of not less than five years to life and a \$100.00 assessment. The range of punishment for count four is not more than fifteen years imprisonment, not more than a \$250,000.00 fine, a term of supervised release of not less than five years to life and a \$100.00 special assessment. Roberts is a total offense level of 43 with a criminal history of 10. The additional special monetary assessment under 18 U.S.C. § 3014 should not apply to either count as Mr. Roberts has been deemed indigent and appointed a court appointed attorney twice.

Mr. Roberts does object to the guidelines as to criminal history and expects this hearing will last less than an hour. Mr. Roberts notes that the factual basis in the Presentence report is from the police reports and not what was actually testified to in court. The court was present for the trial and so the differences will not be detailed in this sentencing memorandum. Defendant maintains the objections to the PSR that have previously been submitted to the probation office.

Degree of Relief Requested

Mr. Roberts request the minimum sentence be granted.

Respectfully Submitted,

SMILING, SMILING & BURGESS

s/Shena E. Burgess

By _____
SHENA E. BURGESS, OBA# 18663
Bradford Place, Suite 300
9175 South Yale Avenue
Tulsa, Oklahoma 74137
(918) 477-7500
(918) 477-7510 *facsimile*
sburgess@smilinglaw.com
sf@smilinglaw.com
Attorney for Roberts

CERTIFICATE OF SERVICE

I hereby certify that on the 23rd day of April, 2023, the foregoing instrument was electronically transmitted to the following ECF registrants:

Edith Singer, Hannah Jones, AUSAs

s/Shena E. Burgess